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THE SELECTION AND DRAWING OF JURORS FOR THE CITY AND COUNTY OF PHILADELPHIA.

The Jury Board.—There are no Jury Commissioners, so called, for Philadelphia. The duties assigned to that body in the other counties of the state, are intrusted in Philadelphia, under the Act of April 20, 1858, to a "Board for Superintending and Managing the Drawing and Selecting Jurors." This Board is composed of all the Judges of the Courts of Common Pleas and of the Sheriff of Philadelphia, making as now constituted, a body of sixteen members. The Board chooses from among its members one of the Judges as its secretary, and from outside its membership, a member of the bar as its clerk. The clerk is elected annually, and his compensation is fixed by the Board. E. Cooper Shapley, Esq., held the position of clerk from 1869 until his resignation in 1907. He was succeeded by David N. Fell, Esq., son of Chief Justice Fell, until 1909, when the latter resigned to accept the position he now occupies on the Board of Revision of Taxes. His successor, the present incumbent, was elected in October, 1909.

Duties of the Clerk.—The clerk is required to have all the names, now twelve thousand, which are annually marked by the members of the Board, written in long hand on separate slips for deposit in the jury wheel, and to prepare two typewritten lists thereof, one for deposit of record and one for the custody of the Board. He is required to be in attendance at each monthly drawing to record in the clerk's jury book which is certified to by the Sheriff, the names of jurors drawn, now averaging over a thousand a month during the running of the civil court trials; and he is required to furnish two copies of this list of names to both the Sheriff and the prothonotary in time to allow the Sheriff to have the jurors served within the statutory requirement, and to enable the civil and criminal courts to have their jury lists for each room printed in time for use at the trials. These printed lists are the ones that are handed to counsel at the trial.

Selection of Names From the Lists of Taxables.—Prior to the first day of December in each and every year, the Receiver of Taxes of the city, lodges with the Sheriff for the use of the Board a duly certified list of all the taxable inhabitants of the city, setting out their names, places of residence and occupation. A copy of this list of names, arranged according to the different wards from which they are drawn, and bound in a separate book for each ward, is furnished to the Board. Under the same Act of April 20th, 1858, the Board or a quorum thereof, prior to the tenth day of December in each and every year, select from the list of taxables a sufficient number of sober, healthy and discreet citizens, to constitute the several panels of jurors, grand and petit that may be required for service in the several courts, in due proportion, from the different wards of the city. The number of assessables furnished to the Board in September last was 377,772 and the number of names required by the Board for jury service was 12,000 as above stated.

Enumeration of Taxables by the City Commissioners.—The City Commissioners furnish to the Board as early in September as possible, a list of assessables. These lists are printed and bound in separate ward books, arranged in the consecutive numerical order of the ward divisions. They also furnish a tabulated statement of the taxables in each ward and the total enumeration for the whole city. When these are received, the Board through its secretary notifies the clerk of the number of names it has determined upon for the coming year, for preparation of the proportions for each ward.

Allotment of Wards to Members of the Board.—When the clerk has made up the proportion of names for each ward, as directed by the Board, he notifies the secretary who fixes a day for the drawing of the wards, when one of the Judges, usually the secretary of the Board, and the Sheriff draw alternately by lot, ballots containing the name of a member, and ballots containing the number of a ward until the full allotment of the names of the members and the number of the wards, has been exhausted. The clerk of the Board is required to be present and make a record of the allotments. The result, as there are now forty-seven

wards in the city, gives to fifteen of the members three wards each, and to one member but two wards.

The Ward Books Containing the Lists of Assessables.—When the allotment of the wards has been made, the clerk writes on the back of each book the name of the member to whom it is allotted, and the proportionate number of names to be marked. Each ward book has its number endorsed on the outside in large numerals, and at the top of each page on the inside is printed in large letters, "Assessor's Registry of Voters, 1st Division, 1st Ward," or as the case may be. The allotment of books is delivered under seal by the clerk to each of the members of the Board for the marking of the names by the member. When the names have been marked up by the members, they return the books to the clerk, who writes out in long hand, on separate slips of paper of uniform size, color and ruling, the name, address, occupation and ward of each person selected by the member, as indicated by a mark placed opposite his name.

The Written Slips and the Typewritten Lists.—The written slips of each ward are compared with the ward book, counted and arranged in alphabetical order, and duplicate typewritten lists thereof, in alphabetical order, are prepared by the clerk. Each member's allotment is enclosed in an envelope addressed to him, sealed and marked with the clerk's initials, and personally delivered by the clerk to each of the fifteen Judges and to the Sheriff for their examination and comparison. If found correct by the member, he endorses on the back of each typewritten list—"Examined and found correct," and retains his packages of written slips and the corresponding typewritten lists, until the day set for the filling of the jury wheel. If, however, a member finds an apparent variance between the slip and the typewritten list he returns both to the clerk for verification and correction according to the printed ward books, and when corrected, receives them back from the clerk.

Filling the Wheel.—On a day fixed by the secretary of the Board for filling the wheel, the members bring in their respective allotment of written slips, and their typewritten lists. The Sheriff, who is also a member of the Board, produces the wheel,

which is kept at all times in his custody, locked in a safe specially provided for it; and the clerk of the Board is directed to be present and produce the key of the wheel, which is deposited by him at a place directed by the Board. The Sheriff, in the presence of the Board, unlocks the wheel, empties it of all the names remaining over from the former year's drawing, and after examination by him and by members of the Board to see that it is cleared of all the former names, the members begin depositing their allotment of written slips into the wheel until the entire number has been deposited, when the wheel is again locked and returned to the custody of the Sheriff, and the key is returned to the clerk of the Board.

The Typewritten Lists.—The members of the Board having certified the typewritten lists in duplicate of the names deposited in the wheel, they hand back the lists to the clerk to arrange in the numerical order of the wards. He fastens them together and endorses one set for deposit in the office of the Prothonotary of the Supreme Court, as provided by the Act of April 8, 1858. The other full set is retained by the clerk for the use of the Board.

Drawing From the Wheel for Jury Service.—The grand and petit jurors for the criminal courts are drawn from the same wheel (there is but one wheel) from which the jurors in the civil courts are drawn. And about the first of every month, the different courts issue to the Sheriff their *venires* (an order) commanding him to summon for jury duty for the succeeding month, the number of jurors called for therein, for the different rooms of the civil and criminal courts. On receipt of the *venires*, the Sheriff immediately calls upon one of the Judges, who fixes a day and place where the drawing can be held. Under the Act of April 20th, 1858, one member of any two of the courts (then the members of the Supreme Court and of the District and Common Pleas courts) with the Sheriff constituted a quorum of the Board for the transaction of business. Now, under the Act of April 8th, 1862, "one Judge of the Courts of Common Pleas together with the Sheriff or his duly authorized deputy shall be sufficient to superintend the drawing of Jurors to serve in the several courts of the city."

On the day of the drawing, the Sheriff produces the wheel and the clerk of the Board the key, and in the presence of the Judge, the Sheriff unlocks the wheel and proceeds to draw from the wheel the number of names called for in the *venires*, while the clerk records them in the jury book which has been duly arranged in the order of the different rooms and ruled and numbered in exact accordance with the number of jurors to be drawn for each room. Separate envelopes endorsed to correspond with the jury book are also prepared. In these the number of names required for each room are placed and at the end of the drawing they are handed up to the Judge to seal and initial and returned to the clerk in custody for the Board until the drawings for the entire year have been completed. The Sheriff or his duly authorized deputy in charge of the drawing over his signature certifies in the jury book, at the end of the list of names for each room, that it is correct, locks the wheel, returns the key to the clerk, and replaces the wheel in the safe in the Sheriff's office. The clerk of the Board then takes charge of the jury book and the envelopes, has the names, in alphabetical order, with the occupation, residence and ward of each juror arranged in typewritten lists for each court room called for in the *venires*. He furnishes two copies to the Sheriff, and two to the Prothonotary for all the civil courts; and for the criminal courts, three copies to the Sheriff only. He retains one copy of all the lists in his custody for the Board. The clerk is required to certify over his signature as "clerk of the Board," "that the above is an accurate list of the names of persons drawn by the Board" to serve in the court room, and upon the date mentioned. The clerk addresses an envelope to the Prothonotary and one to the Sheriff, encloses the typewritten copies due each therein, seals and initials the envelopes, and personally delivers them to those respective officials, or to their duly authorized deputies. From these lists the Sheriff prepares his notices to the persons whose names have been drawn for service, and each court room is furnished with printed copies thereof for use at the trial. One of the copies of the lists furnished to each room is printed on cardboard from which the names are cut by the clerk of the court or crier of each

room, and placed in the trial jury box of that room to be drawn promiscuously therefrom by the clerk or crier of the court at the trial.

Drawing of Talesmen.—Whenever special talesmen are required in any of the courts, the Sheriff produces the wheel in open court, and the clerk of the Board, the key. The Sheriff then, in the presence of the Judge, draws five names for every talesman required. As fast as a block or more of five names are drawn, the Sheriff places them in the hands of his deputies to prepare the proper notice and serve the first man of the five that he can secure. Five names to a juror are drawn that the Sheriff may secure the required number as expeditiously as possible, as the Court is waiting the full complement of twelve jurors before the trial can proceed. In capital cases it is often difficult to secure the full number of jurors out of the ordinary panel. In a late murder trial, an entire panel of eighty names was exhausted in securing but ten names, and the court having ordered one hundred extra names,—twenty blocks of five each,—eighteen of the additional twenty blocks served to attend, were also exhausted in securing the two additional names needed to complete the required twelve.

The Philadelphia System Compared With Other Methods.—In some states, notably Illinois and Colorado, in counties containing a large population, a definite number of names are kept in reserve, *e. g.*, four thousand in Denver, Colorado; and in a large county in Illinois as many as fifteen thousand names are required to be always in readiness for jury service. As depleted by drawings, the commissioners must replace these names with those of other duly qualified persons. In the drawings from the jury boxes, the statutes of some states,—North Carolina and Tennessee,—require the names to be drawn by a child under ten years of age, while in other states the clerk of the court or whoever draws the names, is blindfolded. These instances are given to show the effort made to protect the jury from inside or outside interference. During the past summer (1911) the writer examined, collated and tabulated the statutes of our Federal Government, of all the states and territories, and of England, the provinces of

Canada, and several of the English colonial governments upon the subject of jury commissioners, or bodies to whom the duty of selecting the names for jury service is entrusted. He was impressed with the universal precautions taken to preserve the institution, "trial by jury," from criticism, suspicion or contempt. He also believes that the Philadelphia system secures as satisfactory results as the method employed in any of the other large cities of the country.

T. Elliott Patterson.

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